

October 21, 2020

**CSA Consultation Paper 25-502- *Consultation on the Self-Regulatory Organization Framework*
Ontario District Council Response Letter**

Addressed To:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

c/o:

The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
E-mail: comments@osc.gov.on.ca

Me Philippe Lebel, Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514-864-6381
E-mail: consultation-en-cours@lautorite.qc.ca

Dear CSA Member:

On behalf of the Ontario District Council (ODC) of the Investment Industry Regulatory Organization of Canada (IIROC)¹, I am pleased to respond to the invitation of the Canadian Securities Administrators

¹ Pursuant to Section 10.1 of the IIROC's General By-Law No. 1, there are 10 Districts designated by the IIROC Board generally corresponding to each province in Canada with Nunavut assigned to the Manitoba District, the Northwest Territories assigned to the Alberta District and the Yukon Territory assigned to the Pacific District with British Columbia. Additional information addressing the IIROC District Council system, procedures, code of conduct

(CSA) to make submissions in respect of CSA Consultation Paper 25-402 – Consultation on the Self-Regulatory Organization Framework (Consultation Paper). ODC comprises senior investment dealer executives with operational, financial, legal and regulatory compliance expertise, and is uniquely positioned to provide feedback to the CSA on how innovation and evolution of the financial services industry impacts the current regulatory framework and provide specific comments on the issues and targeted outcomes outlined in the Consultation Paper.

ODC agrees with stakeholder comments to the CSA catalogued in the Consultation Paper highlighting the numerous strengths and benefits of self-regulation and submits this response at its own initiative, independent of any IIROC staff or other submissions provided in response to the Consultation Paper.

Background

IIROC is a national self-regulatory organization (SRO) that oversees all investment dealers and trading activity in debt and equity marketplaces across Canada. IIROC Members are investment dealers and marketplaces. IIROC is subject to [Recognition Orders](#) made by each CSA member with the Ontario Securities Commission (OSC) serving as IIROC’s Principal Regulator.² As noted in the Consultation Paper, CSA members have a long history of utilizing SROs, particularly IIROC and its predecessors, as part of the Canadian regulatory framework. The dynamism inherent in member self-regulation contributes to the success of this “made-in Canada” framework relative to our international peers.

District Councils

The IIROC Board approves the mandate and procedures for District Councils outlined in Appendix 1 and the [IIROC District Council Procedures](#). The mandates and procedures enumerate specific District Council responsibilities and decision-making powers under IIROC rules and the registration decision-making powers delegated by many Canadian statutory regulators. However, District Councils do not make policy or draft rules for the industry. The responsibilities and decision-making functions of District Councils reflect the significant trust the CSA places in IIROC industry representatives to utilize their industry and local knowledge and expertise when discharging their responsibilities and powers to serve the public interest.³

and conflicts policy, and the current members of each District Council is available to the public and stakeholders via the IIROC [website](#).

² Pursuant to IIROC’s Recognition Orders, prior Commission approval is required for material changes to the activities, responsibilities, and authority of the District Councils.

³ Statutory regulators have delegated firm and individual registration functions to respective IIROC District Councils in the provinces of British Columbia, Alberta, Saskatchewan, New Brunswick and Newfoundland and Labrador. Statutory regulators have delegated individual registration functions to respective IIROC District Councils in the provinces of Ontario and Quebec. In those jurisdictions with no or limited delegation, statutory regulators place heavy reliance upon and show significant deference to initial “approval” decisions made under IIROC rules before exercising their statutory non-delegated registration powers.

Response to Consultation Paper

Overall Process

ODC strongly supports IIROC and the Mutual Fund Dealers Association of Canada (MFDA) working together for a more effective single national SRO framework and believes a single national SRO structure is best positioned to advance the targeted outcomes identified in the Consultation Paper. ODC supports the CSA facilitating direct discussions between the SROs and other stakeholders to address how best to achieve the targeted outcomes identified in the Consultation Paper as a single national SRO. Having the SROs and other stakeholders work together in developing a new framework that builds on and incorporates the existing strengths of each organization promotes greater investor and public confidence and will result in a process that is more likely to advance the targeted outcomes identified by the CSA.

ODC decided to address the seven issues identified in the Consultation Paper in this response letter.

Issue 1: Duplicative Operating Costs for Dual Platform Dealers

ODC agrees with the CSA's description of the targeted outcome for this issue and submits a single SRO structure will minimize redundancies, increase operational efficiencies and economies of scale and decrease costs, particularly for dual platform dealers.⁴ Duplicative regulatory costs are a major constraint on enabling the industry to deliver enhanced client experiences and innovation. ODC also encourages:

- the immediate elimination or repeal of the “proficiency upgrade requirement” in connection with an IIROC-MFDA consolidation for individuals who wish to sell mutual funds⁵ on the new single SRO platform
- a detailed examination of how other industry cost savings may be achieved in a single national SRO framework through a more unified, streamlined and non-duplicative national registration system which eliminates the “time cost” and service disruptions to client accounts when an advisor moves platforms.

Greater efficiencies and cost savings are required to allow market participants to better focus on and deliver the products and innovative services Canadians need. Additional benefits will accrue to the competitiveness of our markets and its attractiveness for foreign investors.

⁴ See an [assessment of benefits and costs](#) conducted by Deloitte and released by IIROC on August 25, 2020, revealing that a consolidation of IIROC and the MFDA would result in up to half a billion dollars of industry savings-savings that investment firms could redirect toward enhanced client service and economic growth.

⁵ MFDA registrants may also be dually-licensed by the CSA in some Canadian jurisdictions as “exempt market dealers” able to act as a dealer or underwriter for any securities which are prospectus exempt, as a dealer for any securities sold to clients who qualify for the purchase of exempt securities and as a dealer for investment funds which are either prospectus qualified or prospectus exempt.

Issue 2: Product-Based Regulation

ODC agrees with the CSA's description of the targeted outcome for this issue and submits a single SRO incorporating both investment and mutual fund dealers will help minimize opportunities for regulatory arbitrage and promote a more consistent development and application of rules. IIROC already delivers tailored and proportionate regulation for a wide range of products and to accommodate a range of business models and possesses the requisite expertise to review market participants wishing to introduce new products or innovative services. ODC also encourages the:

- elimination of the current prohibitions on IIROC and MFDA firms entering into introducing/carrying arrangements to better harmonize operational efficiencies and reduce costs
- new single SRO address the challenges experienced by investment dealers when processing account transfers involving MFDA firms.⁶

Issue 3: Regulatory Inefficiencies

ODC agrees with the CSA's description of the targeted outcome for this issue and supports investors having more efficient access to a wide range of products and services, provided investor protection is not compromised. ODC believes a single national SRO will reduce duplicative costs for non-regulatory functions (HR, IT, Office Services) at the CSA and SRO level. These savings could be directed at enhancing investor protection or market integrity initiatives or be passed on to industry through reduced levies. A single SRO framework will also facilitate efficiencies and reduce costs when either regional or national capital market initiatives are undertaken.

Issue 4: Structural Inflexibility

ODC agrees with the CSA's description of the targeted outcome for this issue and highlights the friction and professional development costs associated with having two SROs. Financial services representatives often progress in their education and training to offer a greater range of products and services over the course of their careers. While maintaining appropriate proficiency and other "fit and proper" standards for registration, ODC submits better career path opportunities and outcomes will accrue in a single national SRO system for individual registrants. A single national SRO will also make the securities industry more enticing to prospective recruits, provide a one-stop shop for licensing and eliminate the duplicate regulatory costs associated with the current bifurcated licensing system present in some Canadian jurisdictions.

ODC strongly supports the registration function housed in a single national SRO with the necessary industry expertise to make consistent decisions based on local conditions and customs.⁷ Reduction or

⁶ See Sept. 16, 2020 [comment letter](#) from the Investment Industry Association of Canada (IIAC) in response to MFDA Consultation on Account Transfers (MFDA Bulletin #0823-P)

⁷ Local industry representatives serving on District Council Registration Subcommittees are subject to a [Code of Conduct and Conflicts of Interest Policy](#) and possess the necessary expertise and training to decide on the suitability of potential entrants to the capital markets in their region.

preferably elimination of duplicative approval layers will improve the efficiency by which the new regulatory frameworks accommodates innovation.

ODC also encourages a registration category framework which maintains baseline requirements but allows for the application of additional regulatory requirements based on business activity. ODC submits this type of registration category framework will more efficiently promote innovative business models, products and services.

Issue 5: Investor Confusion

ODC agrees with the CSA's description of the targeted outcome for this issue and submits the high level of fragmentation in the current Canadian regulatory framework makes it more difficult and more confusing for investors to access the advice, products and services they desire or need. A single national SRO framework will simplify the current system and help Canadians more simply understand how the industry is regulated thereby instilling greater investor confidence and knowledge and enhancing the customer experience.

With respect to the CSA decision to create the MFDA in 1998 when the nature of the market and product choices were very different, a single-product SRO now serves to limit the choices available for investors and sows investor confusion as investors accumulate wealth and investment knowledge through their life cycle and seek an expanded range of products and services to suit their needs.

Issue 6: Public Confidence in the Regulatory Framework

ODC agrees with the CSA's description of the targeted outcome for this issue. ODC submits the conflict concerns highlighted in the Consultation Paper that may be specific to District Councils are addressed through a strong Code of Conduct and Conflicts of Interest Policy for District Council members and the thorough vetting of District Council candidates by IIROC staff, the Nominations Subcommittee and District Council, and the members eligible to vote at each District Council Annual General Meeting.⁸ District Council members are highly skilled and experienced industry leaders who possess the requisite skills, integrity and commitment to serve in the public interest. In conjunction with a strong CSA oversight framework, these attributes all enhance public confidence.

ODC also submits the diverse skill sets and expertise of District Council members enhance investor and public confidence in IIROC fulfilling its public interest mandate and that investor and public confidence would be inherently enhanced knowing a single national SRO operating under the CSA oversight framework is uniformly applying its rules across its membership.

⁸ District Council Nomination subcommittees seek to ensure a proper balance of District Council members who will, collectively, provide effective representation of the membership, having regard to each nominee's disciplinary history, if any, skills, experience and expertise necessary to discharge his or her obligations as a District Council member, including regulatory responsibilities pursuant to IIROC Rules and Delegation Orders issued by the provincial and territorial securities regulatory authorities.

Issue 7: The Separation of Market Surveillance from Statutory Regulators (CSA)

ODC agrees with the CSA's description of the targeted outcome for this issue but have serious concerns with thirteen statutory regulators assuming control of national market surveillance functions. Based on the current CSA structure and need for consensus for national initiatives, significant investor protection and market integrity concerns could arise should market surveillance functions be assumed by statutory regulators. The increasing speed, complexity and international nature of the markets require a national body or SRO staffed with market and trading expertise to fulfill this critical function. A single market watchdog with a national view and "one set of eyes" will also bring greater transparency into the various Canadian marketplaces. ODC submits IIROC remains uniquely positioned in the current Canadian regulatory framework to continue to discharge its market regulation and surveillance mandate on a national basis.

Statutory regulators assuming this function will result in greater fragmentation and introduce unnecessary risk to market surveillance functions and may actually hinder industry innovation.

Conclusion

Thank you for the opportunity to comment on the Consultation Paper on behalf of IIROC's Ontario District Council. I would be pleased to address any questions from the CSA in response to this submission.

Yours truly,



Vanessa Gardiner
Chair, Ontario District Council

District Council Mandate

Mandate

Each District Council acts as a local committee, whose mandate includes both:

1. a regulatory role, in relation to regional approval and membership matters
2. an advisory role with respect to regional issues, as well as the provision of regional perspective on national issues.

Membership

Each District Council is composed of 4 to 20 members, inclusive of *ex-officio* members appointed by the Board.

District Council members elected for a two-year term.

The Chair and Vice-Chair of the District Council elected at the annual meeting of the Dealer Members of the District.

Organization

Certain matters relating to the composition and powers of the District Councils are described in IIROC's By-law No. 1. The District Councils also operate under IIROC's *District Council Procedures* and each District Council Member is subject to a *Code of Conduct and Conflicts of Interest Policy*.

District Councils exercise their regulatory authority and perform their advisory function directly or through delegation to staff or District Council sub-committees. The sub-committees include:

- the Nominations Sub-Committee
- the Registration Sub-Committee

and may include other sub-committees, depending on the needs of the region.

A designated member of each of the District Councils comprise the National Advisory Committee (NAC) along with a NAC Chair and Past Chair. The Chair of the NAC may meet with the IIROC Board periodically.

Specific Responsibilities

1. Approve “Applications for Approval” of individuals. (PLR 9200 series)
2. Impose terms and conditions on individuals applying for approval (PLR 9204) and as a condition of continued approval for an individual. (PLR 9207)
3. Revoke or suspend the approval of an individual. (PLR 9207)
4. Exempt individual approved persons from proficiency and continuing education requirements. (PLR 9206)
5. Grant exemptions from introducing-carrying broker arrangement requirements with respect to foreign affiliates. (Rule 35.6 until PLR 2435 and 2436 implemented providing specific criteria for establishing such arrangements without an exemption)
6. Hear and decide on appeals of proficiency related decisions of the District Council’s Registration Sub-committee. (PLR 9209)
7. Recommend new membership applications for submission to the IIROC Board for approval. (PLR 9205)
8. Approve ownership-related transactions for IIROC Members. (IIROC Rules 5 and 6 and PLR 2108 and 2206)
9. Approve the panel of district auditors annually, as recommended by staff. (Rule 16.1 until PLR 4171 implemented giving the approval power to IIROC)
10. Nominate (for appointment by the Corporate Governance Committee) individuals resident in the District to be members of the hearing committee of that District. (PLR 8304)
11. Perform any other regulatory functions delegated to District Councils under IIROC’s Rules or delegation orders.
12. Advise staff on policy matters of interest to the membership and the industry.

District Council Procedures Registration Sub-Committee Mandate

Mandate

The mandate of the Registration Sub-Committee is to make individual approval decisions (including the granting of exemptions from proficiency and continuing education requirements) under authority delegated to the Sub-Committee by the District Council under IIROC's Rules.

Authorities

The Sub-Committee members shall review and decide on approval decisions on behalf of the District Council and in accordance with authorities delegated to them by the District Council.

Delegation by the Council

Delegated authorities may include any authorities the District Council has with respect to individual approval matters under the Rule 9200 series. Delegated authorities may include approvals or refusals of individual approval applications, setting terms and conditions on the continued approval of individuals, suspending or revoking approvals of individuals and granting exemptions from proficiency and continuing education requirements.

The minutes of the District Council shall record the delegation of authority to the Sub-Committee.

The Sub-Committee may not refuse an application for approval or proficiency or continuing education exemption, impose terms and conditions, or suspend or revoke an approval, unless the Applicant or Approved Person has been given an "opportunity to be heard" under IIROC Rules.

Review of Sub-Committee Decisions

IIROC Staff, an applicant or an Approved Person may seek a review of a decision of the Sub-Committee before a hearing panel composed of IIROC Hearing Committee members under Rule 9209 and 9300 or before a District Council Panel under Rule 9209.